

Docket T-101661

Mr. Gomez  
WUTC  
PO Box 47250  
Olympia, WA 98504-8203

Via Web Portal Filing

Re: Our phone conversation on 1-4-11

Dear Mr. Gomez:

We have reviewed Order No. 3, the CSR-101 meeting of December 7, 2010, and our most recent conversation of today and have come to the conclusion that your (staff's ) position relative to the issue of Fuel Surcharges is as stated in the internal memos provided to us previously. You continue to pursue a course of action leading to implementation of forced rate cases upon the autotransportation industry, as well as others, in an effort to regulate profits. Fuel surcharges are simply the vehicle that you have chosen to foster your goal.

Though we find your logic flawed and not applicable we feel that it must be addressed. Fuel Surcharges are not Rates, by definition, by WAC, by precedent or application. Your characterization of them as such is baseless and without merit and a gross misuse of both the states' resources and our own. Rate cases could not be responsive to the changes and volatility of the fuel market, they are reactive, time consuming, expensive and not in either the consumers' or the operators' interest.

"Rate Cases" do not regulate rates or fares, they regulate profits. The categorical statement by staff at the last meeting that they do not consider or survey local, regional or national fares to ascertain a benchmark "fair, just, reasonable and sufficient" fare is an absolutely astounding revelation. Though in light of the fascination staff has with rate cases and the regulation of revenues and profits it is not unexpected. It has been explained to staff how regulating profits does not regulate fares *ad nauseum* and to do so here would be so redundant as to put me to sleep.

I will state once again, the commission does not have license to regulate profits, RCW 81.68 makes that abundantly clear. The term sufficient is not a limiting term but meant to ensure that at a minimum "sufficient" revenues and profits are provided by the "fair just and Reasonable" rates. If the rates are fair just and reasonable to the consumer as evidenced by the market and the operator deems them to be sufficient then the degree of profitability is not a concern or under the jurisdiction of the commission. When this position was made clear to staff at the last meeting they provided no comment either in support or to refute it. The AAG staff sat silently in the back of the room.

In fact staff was silent on all of the questions asked by the operators in attendance at the meeting. The usual response was first silence followed by "well, let's move on to the next topic". Staff was very unresponsive to our inquiries. When directly asked what staffs' position was, we were told that no position had been formulated, contrary to documents circulated among staff. Not to put too fine a point on it but to call the response disingenuous would be kind.

Staff represented to the commission that Order No. 3 was required because fuel prices were stable and would continue to be in the future. This is an untenable position and staff backed off from it at the subsequent meeting. As this acknowledgement has been made after the fact by staff, there no longer exists the purported reasoning and logic behind Order No. 3. Therefore, we will call for the rescission of Order No. 3 prior to its implementation.

As to the data requested by staff from us, all of it is currently available within the documentation previously submitted and in our annual reports. We are a business utilizing our resources to the highest and best purpose in a down market. We are not in the business of doing staffs' research for them; we pay you fees so that if you feel compelled to summarize existing data you have the resources to do so. We have already spent an inordinate amount of time and resources on this issue and perceive that we will be spending a lot more. Those resources must be spent in what we feel are in the best interests of our company and our passengers, not furthering the agency's misguided agenda. It is now the 4th of January and the proposed date for the next meeting has been suggested by staff for the past 4 weeks. It has of yet not been confirmed. Additionally, if the Commissioners are not to be in attendance we are unclear as to the value of the meeting. Therefore a clarification of their ability to attend is paramount. We have businesses to run and passengers to attend to. For us attending a meeting requires a day and a half away from our business and considerable expense. Our schedules are not so flexible that we may drop everything on a day's notice to come to Olympia to protect our business. We would expect that at this point confirmation of the date would be immediately forthcoming.

We look forward to you reply at your earliest convenience.

Regards,

Michael Lauver

John Solin